

SEP 0 4 2003

Paul A. Matteucci 1870 Shiloh Valley Drive Chesterfield, MO 63005-8425

RE: MUR 5383

Dear Mr. Matteucci:

On August 27, 2003, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed, agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary L. Taksar, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Ellen L. Weintraub

Ellen L. Wantrail

Chair

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

## FEDERAL ELECTION COMMISSION

## 2 FACTUAL AND LEGAL ANALYSIS

3 RESPONDENT:

Paul Matteucci

MUR: 5383

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This matter was generated based on information ascertained by the Federal Election
Commission ("the Commission") in the normal course of carrying out its supervisory
responsibilities, see 2 U.S.C. § 437g(a)(2).

## I. $LAW^1$

The Act prohibits corporations and banks from making contributions in connection with a Federal election and defines "contribution" to include "any loan or advance . . . to any candidate, [or] campaign ..." in connection with any Federal election. 2 U.S.C. §§ 441b(a) and 441b(b)(2). The Act prohibits any person from knowingly accepting or receiving any contribution prohibited by 2 U.S.C. § 441b. 2 U.S.C. § 441b(a). Bank loans made in the ordinary course of business are not prohibited. 2 U.S.C. § 441b(b)(2). Commission regulations provide that both incorporated vendors and unincorporated vendors, in their capacity as commercial vendors, may extend credit to a political committee, provided that the credit is extended in the entity's ordinary course of business and that the terms are substantially similar to extensions of credit to nonpolitical debtors. 11 C.F.R. § 116.3(b). Otherwise, the extension of credit is a contribution. 11 C.F.R. § 100.7(a)(4). In determining whether a corporate or unincorporated entity extended credit in the ordinary course of business, the Commission will consider whether the entity followed its own procedures when granting credit, whether the committee repaid the loan promptly, and whether the terms of the loan were in accordance with established business practices. 11 C.F.R. § 116.3(c)(1), (2), and (3).

<sup>&</sup>lt;sup>1</sup> The activity in this matter is governed by the Act and Commission regulations in effect during the 1999-2000 election cycle, which precedes the amendments made by the Bipartisan Campaign Reform Act of 2002 ("BCRA"). All references to the Act and regulations exclude the changes made by BCRA.

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## II. FACTS AND LEGAL ANALYSIS

2	Based on information available to the Commission, AM & PM. Inc., may have been the
3	source of a short-term loan - since repaid -in order to assist in covering printing costs of a book.
4	Paul Matteucci, Mr. Federer's former campaign manager, admitted that his company, AM & PM,
5	Inc., advanced \$11,491 to the Federer for Congress Committee (the "Committee") or to the
6	printing company for 3,000 copies America's God and Country, and the campaign later
7	reimbursed AM & PM, Inc., a Missouri corporation. The book was purportedly distributed at
8	campaign fundraisers, usually to individuals making contributions of at least \$50, and
9	occasionally to individuals who did not make contributions.
10	According to the information, Mr. Federer stated that at the time that AM & PM, Inc.,
11	paid for the books, the campaign did not have the funds available to have additional copies
12	printed for the campaign. Mr. Matteucci provided an invoice from Dickinson Press indicating an
13	"Add on to Job #18747" for 3,000 copies of the book and an invoice from AM & PM, Inc., to the
14	Committee. The Committee later reimbursed AM & PM, Inc.
15	Because corporate contributions are prohibited and AM & PM, Inc.'s purchase of
16	\$11,491 worth of books for the Committee represented a transfer of something of value, AM &
17	PM, Inc. made a prohibited contribution. According to the information available, the Committee
18	did not have the funds available at the time to purchase the books for use in the campaign, and
19	AM & PM, Inc., made the purchase and the books were, in fact, used in the campaign. Mr.
20	Matteucci had a role in the transaction as Mr. Federer's campaign manager and as an officer of
21	the corporation. Therefore, there is reason to believe that Paul Matteucci, as an officer of
22	AM & PM, Inc., violated 2 U.S.C. § 441b(a) by consenting to the making of a corporate
23	contribution and by accepting or receiving the prohibited contribution.